

# EMERGENCY, ABANDONED, & RECALCITRANT (EAR) ACCOUNT PROGRAM GENERAL INFORMATION

The purpose of the Emergency Abandoned & Recalcitrant (EAR) Account is to provide funding to the Regional Water Quality Control Boards (RWQCBs) and local agencies to initiate corrective action at petroleum underground storage tank (UST) sites which have had an unauthorized release and which require either:

- 1) An immediate or prompt action response (emergency site) to protect human health, safety and the environment; or
- 2) Action at a site where a responsible party (RP) can not be identified or located (abandoned site); or
- 3) Action at a site where an RP is either unable or unwilling to take the required corrective action (recalcitrant site).

## **ADMINISTRATION OF PROGRAM:**

State Water Resources Control Board (SWRCB), UST Cleanup Fund

## **ANNUAL FUNDING APPROPRIATION:**

Funded by an annual \$5,000,000 dollar appropriation from the UST Cleanup Fund.

## **PROGRAM CONTACT:**

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## REQUEST FOR FUNDS

### EMERGENCY FUNDING

Provides funding to RWQCBs or local agencies to initiate emergency response for corrective action at petroleum UST sites where immediate action is required and any delay would endanger human health, safety and the environment.

RWQCB Executive Officers and Local Agency Directors (or their designee), may verbally request emergency funds for amounts up to \$100,000.00 to be used for emergency response, if immediate action is required. Approval of these requests will be limited to those sudden cases where a crisis situation, caused by an unauthorized release of petroleum from a petroleum UST, poses an immediate threat to human health, safety and the environment.

### PROMPT ACTION FUNDING

RWQCB Executive Officers, and Local Agency Directors (or their designee), may request up to \$200,000.00 if prompt action is required to protect human health, safety and the environment and the RP, if any, is either unable or unwilling to comply with a written corrective action order requiring such prompt action and where the required corrective action can not wait until the next EAR Account Annual Site List is developed. Approval of these requests will be limited to those cases where a situation poses a threat to human health, safety and the environment and prompt action is required.

To be considered for prompt action funding, specified information would need to be submitted to the EAR Account Administrator. If the EAR Account Administrator determines that the request is eligible for consideration, it will be presented to the SWRCB Workshop and Board Meeting within 60 calendar days of receipt of the request with a recommendation. The State Water Resources Control Board must approve all prompt action requests.

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## ABANDONED & RECALCITRANT FUNDING

Provided there are sufficient funds in the EAR Account, RWQCBs and local agencies will be surveyed annually to obtain a list of nominated and eligible **abandoned** and **recalcitrant** UST sites where corrective action funds are necessary. Up to \$1,500,000.00 per occurrence may be allocated for payment of corrective action and local agency staff costs, less any amounts previously allocated for emergency or prompt action costs. An EAR Annual Site List is developed to identify sites eligible for EAR Account funding.

## SCHEDULE FOR PROCESSING EAR ACCOUNT ANNUAL SITE LIST (LIST)

January	The EAR Account Administrator will request that all RWQCBs and local agencies nominate sites for consideration of EAR Account funding.
March	All local agency nominations must be submitted to their respective RWQCBs by March 1.
May	RWQCBs must submit list of nominated priority sites to the SWRCB by May 1.
July	The EAR Account Administrator will establish a statewide priority list of proposed UST leak sites and establish annual amounts to be allocated to approved sites contained on the List. The List is presented to the SWRCB for adoption by Resolution.

## EAR ACCOUNT FUNDING

### LOCAL AGENCIES (as defined in Section 25281 of the Health & Safety Code)

Beginning October 1, 2004, the SWRCB will no longer enter into contracts with local agencies to provide funds to investigate and remediate petroleum contaminated EAR Account sites caused by leaking underground storage tanks. In lieu of a contract, the SWRCB will issue a Letter of Award (LOA) to the local agency. The LOA will be used to encumber EAR Account funds on behalf of the local agencies for the purpose of funding EAR Account site cleanup.

### REGIONAL WATER QUALITY CONTROL BOARDS

Contracts will be the method for disbursing EAR Account funds for RWQCBs.

The majority of work performed at EAR account sites is identified as "environmental work" and falls under Architectural and Engineering Contracts. This type of contract requires the SWRCB or RWQCB to go through the Request For Qualifications (RFQ) process.

## COST RECOVERY FROM A RESPONSIBLE PARTY

Whenever costs have been incurred from the EAR Account, the SWRCB will seek appropriate cost recovery from the owner or operator of the UST or from any other responsible party. Cost recovery may include attaching a lien to the site or referring the case to the Attorney General's Office to file a civil action. RWQCBs and local agencies will be responsible for maintaining accounting and record keeping systems to adequately document all EAR Account expenditures to support cost recovery efforts.